United Nations S/2008/505

Security Council

Distr.: General
30 July 2008

Original: English

Letter dated 25 July 2008 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

Pursuant to Article 54 of the Charter of the United Nations, I have the honour to transmit to you herewith the resolution adopted on 19 July 2008 by the Council of the League of Arab States at its extraordinary session held at the level of Ministers for Foreign Affairs at the Arab League headquarters in Cairo, concerning the application of the Prosecutor of the International Criminal Court for a warrant of arrest against the President of the Sudan (see annex).

I should be grateful if you would arrange to circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Yahya **Mahmassani**
Ambassador

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Annex to the letter dated 25 July 2008 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

[Original: Arabic]

Resolution concerning the application of the Prosecutor of the International Criminal Court for a warrant of arrest against the President of the Sudan

The Council of the League of Arab States, at its extraordinary session held at the ministerial level on 19 July 2008,

Having considered the memorandum from the Secretariat-General,

Having heard the presentation made by the head of the delegation of the Sudan on developments in the situation involving the Sudan and the International Criminal Court,

Reaffirming the following:

- The resolutions adopted by Arab Summits concerning support for peace, unity and development in the Sudan,
- The importance of according priority to bringing peace and stability to Darfur and all other parts of the Sudan,
- The need to respect the sovereignty and territorial integrity of the Sudan and support endeavours to achieve peace and national reconciliation between all its citizens,

Perturbed by the grave impact on the current peace process in the Sudan of the application by the Prosecutor of the International Criminal Court for a warrant of arrest against the President of the Sudan, Omer Al-Bashir,

Perturbed also by the possibility that such a process will send a negative message to the armed rebel movements and increase their determination to refuse to become parties to the political process,

Affirming the independence and professionalism of the judiciary of the Sudan and its capacity to achieve full justice,

Decides

1. To affirm its respect for the sovereignty, territorial integrity and independence of the Sudan and to request all States to put commitment to those concepts into practice and support the endeavours to achieve peace and national unity between all its citizens.

2. To show solidarity with the Sudan in confronting any designs against its sovereignty, territorial integrity and stability and reject the unbalanced position of the Prosecutor of the International Criminal Court demonstrated in the report he submitted to that Court.

3. To affirm the competence and independence of the judiciary of the Sudan, which was entrusted with the original responsibility for ensuring justice; and in the light of the judicial proceedings that have taken place, to call for all such

proceedings to be completed and full justice to be achieved, monitored by the League of Arab States and the African Union.

4. To affirm its rejection of any attempt to politicize the principles of international justice and use them to diminish the sovereignty, unity, security, stability or national symbols of States.

5. To request the Security Council to assume its responsibility for maintaining international peace and security, take great care in dealing with the situation in the Sudan in the forthcoming period and not to allow any party, operation or process the opportunity to undermine efforts to resolve the Darfur crisis by political means or to create a climate of instability in the country that would threaten future efforts to keep the peace in Darfur or in Southern Sudan.

6. To request that priority should be given to bringing about and activating a political settlement; call for a high-level international meeting to be held in order to move forward the political process in Darfur and devise a road map and time frame for its implementation; and call upon the United Nations and the African Union to join the League of Arab States in taking practical measures towards the convening of such a meeting.

7. To request the Secretary-General to present to the Government of the Sudan, in the course of his visit to that country on 20 July 2008, the action plan that has been agreed upon.

8. To request the Secretary-General to maintain communications with the Secretary-General of the United Nations and the President of the African Union Commission, with a view to ensuring joint movement in dealing with the situation involving the Sudan and the International Criminal Court, achieving national reconciliation, returning communal peace to Darfur and confronting any possible challenges that could have a negative impact on stability in the Sudan, the political process in Darfur and peacekeeping efforts.

9. To commission the Secretary-General and the ministerial committee on the Sudan to continue to follow up the issue and present a report thereon to the Council.

10. To remain in session in order to follow relevant developments.

United Nations S/2008/506

Security Council

Distr.: General
31 July 2008

Original: English

United Kingdom of Great Britain and Northern Ireland: draft resolution

The Security Council,

Reaffirming all its previous resolutions and presidential statements concerning the situation in Sudan,

Reaffirming its strong commitment to the sovereignty, unity, independence and territorial integrity of Sudan and its determination to work with the Government of Sudan, in full respect of its sovereignty, to assist in tackling the various challenges in Sudan,

Recalling also its previous resolutions 1325 (2000) and 1820 (2008) on women, peace and security, 1502 (2003) on the protection of humanitarian and United Nations personnel, 1612 (2005) on children and armed conflict and the subsequent conclusions on the Sudan of the Working Group on Children in Armed Conflicts (S/AC.51/2008/7) as approved by the Council, and 1674 (2006) on the protection of civilians in armed conflict, which reaffirms inter alia the relevant provisions of the United Nations World Summit outcome document, as well as the report of its Mission to Sudan from 3 to 6 June 2008,

Welcoming the report of the Secretary-General and the Chairperson of the African Union Commission of 7 July 2008 (S/2008/443), and *recalling* the confirmation of President Bashir during his meeting with the Council that UNAMID shall be deployed in full,

Deploring, one year after the adoption of resolution 1769 (2007), the deterioration in the security and humanitarian situation in Darfur,

Stressing the need to enhance the safety and security of UNAMID personnel,

Noting with strong concern ongoing attacks on the civilian population and humanitarian workers and continued and widespread sexual violence, including as outlined in the reports of the Secretary-General,

Emphasizing the need to bring to justice the perpetrators of such crimes and *urging* the Government of Sudan to comply with its obligations in this respect, and *reiterating* its condemnation of all violations of human rights and international humanitarian law in Darfur,

Taking note of the African Union (AU) communiqué of the 142nd Peace and Security Council (PSC) Meeting dated 21 July (S/2008/481, annex), *having in mind*

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concerns raised by members of the Council regarding potential developments subsequent to the application by the Prosecutor of the International Criminal Court of 14 July 2008, and *taking note* of their intention to consider these matters further,

Reaffirming its concern that the ongoing violence in Darfur might further negatively affect the stability of Sudan as a whole as well as the region, *noting with concern* the ongoing tensions between the Governments of Sudan and Chad, and *reiterating* that a reduction in these tensions and rebel activity in both countries must be addressed to achieve long-term peace in Darfur and in the region,

Expressing its determination to promote and support the political process in Darfur, especially the new Chief Mediator, and *deploring* the fact that some groups refuse to join the political process,

Reiterating its deep concern for the decreasing security of humanitarian personnel, including killings of humanitarian workers, in Darfur and the hindering of their access to populations in need, *condemning* the parties to the conflict who have failed to ensure the full, safe and unhindered access of relief personnel as well as the delivery of humanitarian assistance, *further condemning* all instances of banditry and car-jackings, and *recognizing* that with many civilians in Darfur having been displaced humanitarian efforts remain a priority until a sustained cease-fire and inclusive political process are achieved,

Demanding an end to attacks on civilians, from any quarter, including by aerial bombing, and the use of civilians as human shields,

Determining that the situation in Darfur, Sudan continues to constitute a threat to international peace and security,

1. *Decides* to extend the mandate of UNAMID as set out in resolution 1769 (2007) for a further 12 months to 31 July 2009;

2. *Welcomes* the agreement of the Government of Sudan, during its meeting with the Council on 5 June 2008, to the African Union (AU) — United Nations (UN) troop deployment plan; *commends* the contribution made by troop and police contributing countries and donors to UNAMID; and, in order to facilitate the full and successful deployment of UNAMID and to enhance the protection of its personnel, *calls*:

(a) for the rapid deployment, as planned by the Secretary-General, of force enablers, including the Heavy Support Package's engineer, logistic, medical and signal units, and of additional troops, police and civilian personnel including contractors; and

(b) on United Nations member states to pledge and contribute the helicopter, aerial reconnaissance, ground transport, engineering and logistical units and other force enablers required;

3. *Underlines* the importance of raising the capability of those UNAMID battalions formerly deployed by the African Union Mission in Sudan and other incoming battalions; *requests* the continuing assistance of donors in ensuring that these battalions are trained and equipped to United Nations standards; and further requests the Secretary-General to include this in his next report to the Council;

4. *Welcomes* the intention of the Secretary-General to deploy 80 per cent of UNAMID by 31 December 2008, and *urges* the Government of Sudan, troop

contributors, donors, the United Nations Secretariat and all stakeholders to do all they can to facilitate this;

5. *Welcomes* the signing of the Status of Forces Agreement; *demands* that the Government of Sudan complies with it fully and without delay; and *further demands* that the Government of Sudan and all armed groups in Sudan's territory ensure the full and expeditious deployment of UNAMID and remove all obstacles to the proper discharge of its mandate, including by ensuring its security and freedom of movement;

6. *Underlines*, with a view to strengthening cooperation with troop and police contributors as well as their safety and security, the need for enhanced guidelines, procedures and information-sharing;

7. *Underlines* the need for UNAMID to make full use of its current mandate and capabilities with regard to the protection of civilians, ensuring humanitarian access and working with other United Nations agencies;

8. *Reiterates* its condemnation of previous attacks on UNAMID; *stresses* that any attack or threat on UNAMID is unacceptable; *demands* that there be no recurrence of such attacks, and *further requests* the Secretary-General to report to the Security Council on the result of United Nations investigations and with recommendations to prevent a reoccurrence of such attacks;

9. *Reiterates* there can be no military solution to the conflict in Darfur, and that an inclusive political settlement and the successful deployment of UNAMID are essential to re-establishing peace in Darfur;

10. *Welcomes* the appointment of Mr Djibrill Yipènè Bassolé as Joint AU-UN Chief Mediator, who has its full support; *calls* on the Government of Sudan and rebel groups to engage fully and constructively in the peace process, including by entering into talks under the mediation of Mr Bassolé; *demands* all the parties, in particular rebel groups, to finalise their preparations for and to join the talks; and *underlines* also the need for the engagement of civil society, including women and women-led organizations, community groups and tribal leaders;

11. *Demands* an end to violence by all sides, to attacks on civilians, peacekeepers and humanitarian personnel, and to other violations of human rights and international humanitarian law in Darfur; *further demands* that all parties cease hostilities and immediately commit themselves to a sustained and permanent cease-fire; and *encourages* the mediation to consult with all relevant parties on security issues with a view to a more effective cease-fire commission working closely with UNAMID to monitor the cessation of hostilities;

12. *Calls* on Sudan and Chad to abide by their obligations under the Dakar Agreement, the Tripoli Agreement and subsequent bilateral agreements, including by ending support for rebel groups; *welcomes* the creation of the Dakar Agreement Contact Group, and the consideration being given to improved monitoring of the border between Sudan and Chad; and *takes note* of the agreement of Sudan and Chad on 18 July to restore diplomatic relations;

13. *Demands* the full implementation of the Communiqué between the Government of Sudan and the United Nations on Facilitation of Humanitarian Activities in Darfur, and that the Government of Sudan, all militias, armed groups

and all other stakeholders ensure the full, safe and unhindered access of humanitarian organizations and relief personnel;

14. *Requests* the Secretary-General to ensure (a) continued monitoring and reporting of the situation of children and (b) continued dialogue with the parties to the conflict towards the preparation of time bound action plans to end the recruitment and use of child soldiers and other violations against children;

15. *Demands* that the parties to the conflict immediately take appropriate measures to protect civilians, including women and children, from all forms of sexual violence, in line with resolution 1820 (2008); and *requests* the Secretary-General to ensure, as appropriate, that resolutions 1325 (2000) and 1820 are implemented by UNAMID and to include information on this in his report requested in paragraph 16 below;

16. *Demands* that the parties to the conflict in Darfur fulfil their international obligations and their commitments under relevant agreements, this resolution and other relevant Council resolutions;

17. *Requests* the Secretary-General to report to the Council every 60 days after the adoption of this resolution on developments on UNAMID, the political process, the security and humanitarian situation, and all parties' compliance with their international obligations;

18. *Reiterates its readiness* to take action against any party that impedes the peace process, humanitarian assistance or the deployment of UNAMID; and *recognises* that due process must take its course;

19. *Decides* to remain seized of the matter.

United Nations S/2008/507

Security Council

Distr.: General
31 July 2008

Original: English

Letter dated 25 July 2008 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to article 13 bis, paragraph 2, of the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which reads:

> "In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 13 of the statute for the remainder of the term of office concerned."

I should like to inform you that Judge Wolfgang Schomburg, a national of Germany, has resigned as a permanent judge of the Tribunal, effective 18 November 2008.

The Government of Germany has presented the candidacy of Christoph Flügge to replace Judge Schomburg. His curriculum vitae is attached (see annex).*

It is my view that Mr. Flügge meets the qualifications prescribed in article 13 of the statute of the Tribunal. I also consider that Mr. Flügge's appointment would ensure adequate representation on the Tribunal of the principal legal systems of the world, as contemplated in article 13 bis, paragraph 1 (c), of the statute.

I should therefore like to proceed to consultation with you on the appointment of Mr. Flügge, in accordance with article 13 bis, paragraph 2, of the statute of the Tribunal. I look forward to receiving your views on the matter.

(*Signed*) **Ban** Ki-moon

* The annex is being circulated in the language of submission only.

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Annex

Curriculum vitae

Christoph Flügge

Born 14 July 1947

Professional career

Since 2007	(and before) Expert in criminal matters for the Council of Europe and for the German Foundation for International Legal Cooperation (IRZ) on implementation of Council of Europe conventions in the penal field and on reform of the prison system in Ukraine, Russian Federation, Romania, Estonia, Lithuania
2001-2007	Secretary of State at the Senate Justice Department in Berlin as head of the judiciary including the Courts of Berlin, the General Prosecutor and the Prison Administration of Berlin
1989-2001	Head of the prison department in the Senate Justice Department in Berlin
1983-1989	Criminal judge at the County Court and the Criminal District Court in Berlin
1978-1983	Civil servant and head of division in the prison department of the Senate Justice Department in Berlin
1977-1978	Public Prosecutor in Berlin
1976	Personal Assistant of the Senator for the Interior in Berlin, who was responsible for public security (including criminal investigation matters) and constitutional matters in Berlin
1976	Second State Examination in Berlin
1973-1976	Junior lawyer in Berlin
1973	First State Examination in Berlin
1969-1971	Assistant of a German Member of Parliament (Bundestag) in Bonn, who was a member of the legal commission of Parliament
1967-1973	Study of law at the Free University of Berlin and in Bonn

Membership of professional bodies

Since 1996 member of the Steering Committee (now: PPMM) of the Council of Europe for the Reform of the Ukrainian Prison System

2002-2004 and 2006-2008 member of the board of curators of the German Foundation for International Legal Cooperation

2001-2007 member of the Council of the Foundation for the Memorial Berlin-Hohenschönhausen (former central pre-trial prison of the Secret Service of the German Democratic Republic (Stasi))

2001-2007 member of the board of curators of the Berlin University of Applied Sciences for Administration and Justice

1989-2001 member of the Penitentiary Commission of the German Bundesländer

Since 1989 member of the German League of Prison Governors

Related activities

Expert of the Council of Europe (seminars with the Ministry of Justice and the Supreme Court of Ukraine and with the Prison Administration of Lithuania)

Expert of the German Foundation for International Legal Cooperation (seminars with Russian Mercy Commissions, the Estonian Chancellor of Law and the National Administration for Penitentiaries of Romania)

Consultant of the Estonian Ministry of Justice and the Austrian Prison Administration

Publications

1990 DDR-Strafvollzug: Recht statt Drill, in *Neue Kriminalpolitik* 1990

1991 Alter Geist — neue Probleme, Strafvollzug nach der Wiedervereinigung, in *Neue Kriminalpolitik* 1991

1991 Der Anfang der Gemeinsamkeit, in *Zeitschrift für Strafvollzug und Straffälligenhilfe* 3/91

1992 Auf der Suche nach neuen Wegen im Strafvollzug, in Cremer-Schäfer, ed., *Im Namen des Volkes?* (Katholische Akademie Rabanus Maurus Wiesbaden, Idstein 1992)

1993 Zur Organisation und Situation des Justizvollzuges in der Bundesrepublik Deutschland, in *Zeitschrift für Strafvollzug und Straffälligenhilfe* 3/93

1995 Wie war es wirklich in den DDR-Gefängnissen? Uber die Schwierigkeiten mit einer "amtlichen Auskunft", in *Horch und Guck* 17,4/95 and in *Zeitschrift für Strafvollzug und Straffälligenhilfe* 2/96

1997 Assessment of the Ukrainian Prison System (Lakes/Fliigge/Philip/Nestorovic-Report), Council of Europe, Strasbourg 1997 (UKR V.B.4 (97) 1)

1997 ... und sie bewegt sich doch, Debatte um die Todesstrafe in der Ukraine, in *ai-Journal* 6/97

1998 Berlin zeigt Mut zur Reform, in *Neue Kriminalpolitik* 1/1998

1999 Dienstleistungsunternehmen Strafvollzug, in Bruhn, Stauss, *Dienstleistungsqualität*, 3rd ed. (Wiesbaden 1999)

1999 Untersuchungshaftanstalten des MfS, in *Strafvollzug in den neuen Bundesländern* (Kriminologische Zentralstelle, Wiesbaden 1999)

2000 Kommerzialisierung des Strafvollzuges? in *Everything for sale?* Documentation of a session of the Evangelische Akademie Mülheim an der Ruhr, February 2000

2000 Gefängnisse als Aktiengesellschaften? in *Das Geschäft mit der Sicherheit* (Friedrich-Ebert-Stiftung, Berlin 2000)

2000 Instrumentalisierung der VoUzugsmedizin zu nichtmedizinischen Zwecken, in *Zeitschrift für ärztliche Fortbildung und Qualitätssicherung* 4/2000

2001 Von der Aufsicht zur Globalsteuerung, in Fltigge, Maelicke and Preusker, eds., *Das Gefängnis als lernende Organisation* (Baden-Baden 2001)

2001 Internationale Beziehungen und Kontakte im Strafvollzug, in Herrfahrdt, ed. *Strafvollzug in Europa* (Hanover 2001)

2002 Rechte Gewalttäter in Haft — und was dann? in *Zeitschrift für Strafvollzug und Straffälligenhilfe* 2/02

2002 Haushaltsfragen als Stolpersteine für strafrechtliche Innovationen, in *Gemeinnützige Arbeit statt Knast* (Friedrich-Ebert-Stiftung, Berlin 2002)

2003 Aufbruch in eine neue Reformphase im deutschen Justizvollzug, in Maelicke, Fltigge and Preusker, eds., *Perspektiven und Strategien zur Modernisierung des Strafvollzuges* (Baden-Baden 2003)

2003/2004 Freiheitsstrafe und Gefängnissystem in Deutschland — Vangiakaristus ja vanglasüsteem Saksamaal, in *Juridica International* VIII/2003 and *Juridica* III/2004 (Tartu/Estland)

2004 Reassessment of the Needs of the Ukrainian Prison System, Council of Europe Strasbourg 2004 (SG/Ukraine (2003) 1 REV)

2004 Wertimplikationen im Studium für den öffentlichen Dienst im zusammenwachsenden Europa, in 15. Glienicker Gespräch, Fachhochschule für Verwaltung und Rechtspflege, Berlin 2004

2005 100. Tagung des Strafvollzugsausschusses der Länder, in *Zeitschrift für Strafvollzug und Straffälligenhilfe* 1/05

2007 Wozu brauchen wir noch den Staat? Die Privaten auf dem Vormarsch? in *Forum Strafvollzug* 5/2007

United Nations S/2008/508

Security Council

Distr.: General
31 July 2008

Original: English

Letter dated 30 July 2008 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 25 July 2008 (S/2008/507) concerning the composition of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 has been brought to the attention of the members of the Security Council. Having consulted those members, I support your intention to appoint Christoph Flügge as a permanent judge of the Tribunal.

(*Signed*) **Le** Luong Minh
President of the Security Council

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